NO. 82-1947

IN THE

SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1982

ERICH KOKER and BEATRICE E. KOKER, husband and wife, APPELLANTS,

Versus

FREDERICK V. BETTS and JANE DOE BETTS, his wife, and their marital community, and SKEEL, McKELVY, HENKE, EVANSON & BETTS, Law Firm Of Frederick V. Betts,

APPELLEES,

AND

KENNETH L. LeMASTER and JANE DOE LeMASTER, his wife, and their marital community, and SAFECO INSURANCE COMPANY OF AMERICA, AND GENERAL INSURANCE COMPANY OF AMERICA, and FIRST NATIONAL INSURANCE COMPANY OF AMERICA.

APPELLEES.

ON APPEAL FROM THE COURT OF APPEALS DIVISION I AND THE SUPREME COURT OF THE STATE OF WASHINGTON

SUPPLEMENTARY BRIEF

INTERVENING MATTER

ORAL ARGUMENT TAPES ERASED

Erich Koker
939 North 105th St.
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ORAL ARGUMENT

THE APPEARANCE IS OBVIOUS. THE COURTS OF THE STATE OF WASHINGTON WANT THIS CASE BURIED FROM PUBLIC EXPOSURE AND TRIAL.

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AND

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ON APPEAL FROM THE COURT OF APPEALS
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THE STATE OF WASHINGTON

INTERVENING MATTER: RECORD ON APPEAL:
ORAL ARGUMENT TAPES
DELIBERATELY ERASED

SUPPLEMENTARY
BRIEF

Supplementary Brief pursuant to Rule 16.6 and Rule 33. There is an intervening matter not available at the appellants' last filing. RE: ORAL ARGUMENT TAPES DELIBERATELY ERASED.

I

COMMENTS FROM THE BENCH AT ORAL ARGUMENT

Two 14" x 22" placards were used in oral argument by Beatrice Koker. One as a visual demonstration for the four parts of the case at bar and the relationship of the defendants to one another and to the case. The second placard was used to show the conflict of rulings of the court and contrary to law.

After the explanation of placard one, pointing to the parts of the case in their order and the purpose of each, Honorable Judge Swanson explained what the court understood the four parts to be and the position of the defendants to one another.

PERFECTION

This Honorable Judge explained my case perfectly and that explanation was stated as the understanding of the panel of Judges at oral argument. This is imperative importance because the tapes are erased and you will-not know from the record the discrepancy between oral argument and the opinions per curiam.

QUESTION: Why would the opinions handed down be so foreign and alien and conflicting with the perfect understanding of the Court of Appeals as per the oral argument? Which judge on that panel wrote the opinions? Was it a judge from outside the panel? Or a Commissioner? That information withheld from me, as well as a copy of the record order, as well as refusal of copy of oral argument tapes.

In Wests Key 824 - Oral Argument 15 Wests General Digest 2. QUOTE:

> Cal 1982. "Right to oral argument would be empty right if it did not encompass right to have one's case decided by justices who heard argument; thus, permitting justice who has not heard oral argument to participate in decision of case would effectively deny litigants their right to oral argument on appeal." MOLES V REGENTS OF UNIVERSITY OF CALIFORNIA 854 P 2d 740, 187 Cal Rptr 557, 32 C 3d 867:

> "There is no authority, constitutional or otherwise, granting presiding judge of Court of Appeal power to substitute one judge of panel for

"another after oral argument; therefore, where presiding judge of Court of Appeal substituted one judge for another after oral argument in appeal, Court of Appeals decision affirming trial court determination is invalid." Id.

QUESTION: Are the panel of Judges at oral argument "responsible for the opinions" even if someone outside the panel of judges wrote the opinions?

SEEKING UNITED STATES SUPREME COURT SUPERVISION

Supervision of the United States Supreme Court and invoking their jurisdiction in this appeal in defense of Beatrice Koker's rights. The state appellate structure has so departed from the accepted and usual course of judicial proceedings, and protection of records, and preservation entire records, and have sanctioned such a departure by the lower court in contrary to law rulings, as to call for the exercise of the supervision and justice from the highest court in the land.

II FOUR MONTHS PREPARATION FOR ORAL ARGUMENT

Oral argument is imperative to an appeal, an opinion shared by many learned men. Nearly forty years ago Roscoe Pound wrote:

> "One of the most serious features of appellate practice in the United States is the decadence of oral argument." R. POUND, APPELLATE PROCEDURE IN CIVIL CASES 369 (1941):

*** Mr. Justice Brennan said:

> "Oral argument is the absolutely indispensable ingredient of appellate advocacy....Often my whole notion of what a case is about crystallizes at oral argument." W. BRENNAN, HARVARD LAW SCHOOL OCCASIONAL PAMPHLET NO. 9 page 22 and 23 (1967):

** Justice Jackson wrote:

> "I think the Justice would answer unanimously that now, as traditionally, they rely heavily on oral presentations. Most of them form at least a tentative conclusion from it in a large percentage of cases." Justice JACKSON, ADVOCACY BEFORE THE SUPREME COURT: SUGGESTIONS FOR EFFECTIVE CASE PRESENTATIONS, 37 A.B.A.J. 801 (1951):

** John Appleman pointedly declared in J. APPLEMAN, SUCCESSFUL APPELLATE TECHNIQUES p 996(1953):

> "The fact of the matter--the brutal hard fact of the matter--is that cases frequently are won and lost on oral argument ...."

** Harlan, WHAT PART DOES THE ORAL ARGUMENT PLAY IN THE CONDUCT OF AN APPEAL, 41 CORNELL L.". 6 (1955):

> "I should like to leave with you . . . the thought that your oral argument on appeal is perhaps the most effective weapon you have got if you will give it the time and attention it deserves."

** Harris Steinberg states bluntly in MILLER, ORAL ARGUMENT, 9 D.C.B.A.J. 196 (1942):

> "The longer I sit on the bench the more convinced I become that a lawyer should never submit a case without oral argument."

Honorable Herbert A. Swanson, Court of Appeals Division I and a judge on the panel of my oral argument on appeal, is on the editorial board of the WASHINGTON APPELLATE

HANDBOOK published January 5, 1980. Chapter 20 was diligently studied and practiced for four months in preparation for my oral argument.

WHAT WAS IN THE ERASED TAPES?
WHY ARE THESE TAPES SO IMPORTANT?
WHAT IS THE RELEVANCY?

The oral argument proceedings tapes hold blunt, pointed, penetrating questions from the bench. A federal question was presented.

Those tapes are directly related to the persistent motions for disclosure because the format and aura and contents of oral argument is so foreign and alien to the opinions handed down, it is impossible to associate one with the other.

The erased tapes are important and relevant to the premature mandate, a distasteful encounter regarding access to one folder of one appeal, files out of order, original document missing, original records released in a pending action, and to an adversary defendant. The Clerk of the Court of Appeals is aware of all.

III PATTERN OF NEGLECT OF RECORDS ON APPEAL

Erasure of the oral argument tapes is related to other non-protection of my records. These oral argument tapes are records because of the nature of the proceeding and penetrating questions from the bench on the subject of conspiracy and collusion et al Cause II.

In 1979 the same Court of Appeals released my original records in a pending court case and did so knowingly. Those records given to a litigant (now Appellee-Betts) were out of the Appellate Court 46 days with 12 extra days granted. APPENDIX A-1 and A-2:

ORIGINAL RECORDS

28 USCA 1738 Note 25 indicates that any court receiving a certified record does not even have to ask if the Clerk of the Supreme Court or Court of Appeals has had custody of the original files since it was filed. That also means files not released unless court so orders. My original records given at will.

IV MEANINGLESS APPEAL
MOTION FOR DISCLOSURE
DENIED

A motion for disclosure regarding oral argument and who wrote the opinions, and for a copy of the orders denied in all state appellate structure.

ORAL ARGUMENT TAPE COPY
ALSO REFUSED BY SAME COURT

From March 24, 1982 until November of that year, I asked three times for a copy of the oral argument tapes and was refused each time by the Court of Appeals Division I.

The State Supreme Court agreed to make a copy, but could not obtain the tapes. The search by that court has continued from December 1982 until the letter of July 14, 1983. Notification from the State Supreme Court that the oral argument tapes have been erased by the Court of Appeals.

Why would the Court of Appeals withhold copies of records, and erase oral argument tape deliberately knowing it is being sought, when

all have sworn to uphold the Constitution? The Constitution says the common-law right to inspect and copy judicial records is firmly established and that right applies to tapes as well as documents. USCA CONSTITUTION AMENDMENT 1 5 West's General Digest 968 Records II. Public Access: RCW 42.17:

Public Disclosure in 1641 #48 from "Colonial Laws of Massachusetts": Published under supervision of William H. Whitmore, Record Commissioner City Council of Boston.

> "Every Inhabitant of the Country shall have free libertie to search and veewe any Rooles, Records, or Regesters of any Court or office except the Councell, And to have a transcript or exemplification thereof written examined, and signed by the hand of the officer of the office paying the appointed fees therefore."

This was before State Courts in seeking disclosure. Neither the Constitution nor Colonial Laws based upon the Constitution have moved the State Courts, low or high, to protect the rights of Beatrice Koker, Citizen

Pro Se, leaving a wake of meaningless appeals.

In the Jurisdictional Statement APPENDIX C-41 it says:

> "The evading, avoiding misunderstanding, shunning of the errors and issues on appeal, was so appalling to this petitioner that I could-not accept that a judge wrote them."
>
> "The ruling was per curiam and had the opinion apprised the thrust of review, I would not have questioned it. As it was, I asked for the author of the opinions under RCW 42.17 Public Disclosure Act and was refused all the way to State Supreme Court."

Under that act, final opinions, as well as orders made in adjudication of cases are available to the public for copies for a fee.

FROM THE RECORD

The Commissioner of the State Supreme Court denied my motion for disclosure. I appealed his ruling to the Judges September 22, 1982. Excerpts quoted: APPENDIX H-1 Thru H-3

V

CONFLICT. I am bereft of rights in Washington State Courts in meaningless appeals.

PRE-MANDATE
MANDATE PREMATURE

After receiving a letter calling my motion reconsideration-rehearing POST mandate, I wrote a correction to the State Supreme Court. The motion was to be heard January 7, 1983: Quoting page 1:

> "The letter states petitioner Beatrice Koker's motions were POST-Mandate. This is error and must be corrected to read as PRE-Mandate, as the mandate was issued AFTER the Motion For Reconsideration."

Erasure of tapes directly involved with the mandate as per letter infra. Excerpts from my motion to correct to pre-mandate will be found APPENDIX E-1 Through E-6:

Costs not paid. Particulars page 30 Jurisdictional Statement. In BRAZZEL V MURRAY 472 SW 2d 814: Tex Civ App 1971, it says no one is entitled to take out mandate or have it filed, until costs have been paid.

VI MOTION TO REMOVE RECORDS
FROM COURT OF APPEALS DIV I

This is a matter relevant to erasure of oral argument tapes also a part of the record. There is threadbare protection for my records, and insult added to injury.

The docket sheet listed a letter received by the State Supreme Court from a law student in 1980, interested in my case. I had not received a copy of that letter. There is always search for counsel and this girl may by now be an attorney.

SIMPLE POLITE REQUEST

The girl at the desk was asked for one folder of one appeal and she curtly replied she would bring all the files in the case at bar. I asked her please not to bring all the files when only one folder of one appeal was needed and identified which folder.

The girl brought all the files and threw-dumped them over a railing onto the floor by my feet in utter disdain and derision.

The girl then went into the Clerk's office which appeared empty. The windows of the office uncurtained and parallel to windows of building exterior, reflected as a mirror.

I witnessed reflection scenes of the girl gesturing the file-flinging and laughing heartily, accompanied in laughter by the Clerk of the Court. I am crippled, using a leg brace and cane and could not pick up my records.

The girl would-not have dared to commit this humiliation and rudeness in such a deliberate act to a citizen unless she knew in advance it would-not jeopardize her job security.

MOTION FOLLOWED TO REMOVE RECORDS AND WHY

I asked the Court in motion to take judicial notice that the motion document is in affidavit under penalty of perjury and if anyone denied the facts I presented, that there be further truth tests for all.

VII COURT'S REPLY TO MOTION
TO REMOVE RECORDS

The Clerk of the Court of Appeals Div I answered the motion even though no one but the Judge could rule. No one denied the truth of my motion.

Mr. Richard D. Taylor, the Clerk, is a very dignified, intelligent gentleman and I did-not want to see him so demeaned to apologize and offer excuses. APPENDIX B-1 and B-2:

I appealed to Honorable Presiding Judge Andersen again, to remove the records and eliminate denial of my access to the courts and records. The underlying attitude shall-not change. APPENDIX C-1 Through C-7:

There were physical effects to me in the aftermath of-the humiliation and anguish felt.

NO DIRECT REPLY
TO THE MOTION

The records removed from the Appellate court and sent, out of order, documents missing, tapes erased. Letter notifying APPENDIX D-1:

VIII RESPECT

Please take note the Court of Appeals in Seattle, is the only uncourtlike treatment encountered in seven years as a pro se. It hurts that Mr. Taylor is anti-Beatrice. The attorneys made me a pro se. Others respect me.

EXAMPLE

Mr. Robert A. Keene formerly before retirement worked closely to the Mayor of Seattle then. The following reference is from him.

July 23, 1974

"TO WHOM IT MAY CONCERN:

It has been my privilege to know Mrs. Erich (Beatrice) Koker for a number of years.

I hold her in the highest regard as a highly intelligent person of unassailable integrity, honesty, and character, to which should be added "courage."

Should detail or example be desired, the reader is invited to communicate directly with the undersigned."

/s/

Robert A. Keene
6242 36th Avenue N.E.
Seattle, Washington

(206)
523-1188

IX INTERVENING MATTER

On June 28, 1983 a letter was sent to Honorable Reginald Shriver for verification a document is missing from the file and asked if the oral argument tapes he has been looking for SINCE DECEMBER 1982 had been found.

APPENDIX F-1 Through F-3:

The answer is verification the document is not in the record file and that the tapes of oral argument removed from the record at the time of mandate and erased. APPENDIX G-1

Mr. Taylor, Clerk of Court of Appeals Div I where tapes were erased, knew the pre-mandate, knew the United States Court Appeal. The Clerk of the State Supreme Court expected the tapes to be in the record sent to that court on my motion to remove records.

FEDERAL QUESTIONS

FEDERAL QUESTIONS III AND VI are applicable. "Meaningless appeal" says it all.

Erasure of oral argument under the circumstances of the case at bar is another unjust act in the already meaningless appeal.

QUESTION: Why would a Court refuse me a copy of my own tapes as early as the day of oral argument March 24, 1982? Why were the oral argument tapes withheld from the record sent to the State Supreme Court for petition for review? When discrepancy between oral argument and opinions is questioned and disclosure denied- - WHY? Who is the author of those opinions? Why was the order refused me? Why are the tapes erased? This, you see,is not just an isolated happening, but involves all other relevant denial of absolute rights to a meaningful appeal.

RELEVANCE

Oral arguments as to facts and law could be reconstructed from the record, but this oral argument had potent questions from the bench not in the record. Opinions that could-not evolve from that oral argument.

X CONCLUSION

The mandate is a premature action. Even worse, the mandate is used as an excuse to erase oral argument tapes. The state appellate court will only stay issuance of the mandate pending review by the United States Supreme Court in a case in which the death penalty has been imposed. RAP 12.6.

> Or App 1982. "No mandate issues from the Court of Appeals on a case pending for review by the Supreme Court until the Supreme Court has acted on the case and the TIME FOR PETITION FOR REHEARING IN THAT COURT HAS EXPIRED." (Emphasis Mine)
>
> Matter of Compensation of Castro
> 652 P 2d 1286, 60 Or App 112:

Appellants Kokers respectfully ask the United States Supreme Court to apply this substantial intervening matter of erasing oral argument tapes, as another reason of substance for granting jurisdiction to the appellants, in conjunction with all other matters herein and added to the matters of

CONCLUSION

the Jurisdictional Statement and APPENDIX A B C and Appellants' Reply Brief opposing the motion to dismiss or affirm. And record.

To grant jurisdiction to Appellants Koker is justice at the same time to both appellees as a chance of justice for us all eventually before the trier in a Constitutional trial fully and fairly heard in a meaningful manner. Or in the alternative, settlement out of court.

The intervening matter of this Supplemental Brief is, under the circumstances of the case at bar, a convincing additional element of the necessity of intervention of the United States Supreme Court.

Respectfully submitted,

Beatrice E. Koker

Beatrice E. Koker, Pro Se

Erich Koker.

Erich Koker
939 North 105th Street
Seattle, Washington 98133
(206) 783-6998

Subscribed and sworn to before me this 26th day of July 1983

James J. McArdle

A Notary Public
in and for the State of Washington
Residing at Seattle

Affidavit of Beatrice Koker

Certificate of Service

I, Beatrice Koker do hereby certify that three copies each of the Supplementary Brief and Appendix thereto have been served, personal service, July 28, 1983 on the following:

Betts, Patterson and Mines
Ms. Ingrid Hansen
900 - Fourth Avenue
40 th Floor
Seattle, Washington 98164

and

Helsell, Fetterman, Martin,
Todd & Hokanson
Ms. Cochran
Post Office Box 21846
Seattle, Washington 98111

NO. 82-1947

IN THE

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Versus

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APPELLEES,

AND

KENNETH L. LeMASTER and JANE DOE LeMASTER, his wife, and their marital community, and SAFECO INSURANCE COMPANY OF AMERICA, AND GENERAL INSURANCE COMPANY OF AMERICA, and FIRST NATIONAL INSURANCE COMPANY OF AMERICA.

APPELLEES.

ON APPEAL FROM THE COURT OF APPEALS DIVISION I AND THE SUPREME COURT OF THE STATE OF WASHINGTON

Appendix SUPPLEMENTARY BRIEF

INTERVENING MATTER

ORAL ARGUMENT TAPES ERASED

Erich Koker
939 North 105th St.
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(206) 783-6998

Beatrice E. Koker
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Seattle, Washington
(206) 783-6998 Pro Se

CONTENTS OF APPENDIX

ORIGINAL RECORDS RELEASED

Date	Filings and Proceedings
7/27/79	Vols. I-V of VRP checked out to Frederick V. Betts, to be returned by Sept. 6, 1979.
8/3/79	Request from Beatrice E. Koker for Certification of Record/Transmittal of Record
8/21/79	Mrs. Koker advised that certification of record not necessary at this time

Affidavit ____ ; ____ ; ____ ; ____ ; ____ ;
I do certify by affidavit this Copy of Docket Card obtained from The Court of Appeals Division I - Seattle, Washington on September 10, 1979 at .15¢ per copy by Plaintiff/Appellant/Petitioner, pro se.
(This is a xeroxed copy of a xeroxed copy) Last page only.)
Beatrice E. Koker
939 N. 105th St Seattle, Wa. 98133

Date	Filings and Proceedings
7/27/79	Vols. I-V of VRP checked out to Frederick V. Betts, to be returned by Sept. 6, 1979. Exhibit file checked out 1-1-79.
8/3/79	Request from Beatrice E. Koker for Certification of Record/Transmittal of Record
8/21/79	Mrs. Koker advised that certification of record not necessary at this time
9/11/79	Per phone conversation, Mr. Betts extended return date on file to September 24, 1979 (wb)
9/12/79	Pouches returned by Mr. Betts.

Affidavit: ; ; ; ; ;
I do certify by affidavit this Copy of Docket Card was obtained by Beatrice E. Koker, Plaintiff/Appellant/Petitioner) per from The Court of Appeals Division I Seattle, Washington on September 13, 197

(This is a xeroxed copy of a xeroxed copy) A-1

A-1

THE COURT OF APPEALS
of the
STATE OF WASHINGTON

Seattle
98101

February 23, 1983

Ms. Beatrice E. Koker
939 North 105th St.
Seattle, WA 98133

Dear Ms. Koker:

This is in response to your Motion for Removal of Records received by this court on February 14, 1983.

It is this court's policy to serve the public and not be of a disservice. We stand corrected and sorry for the manner in which you were treated.

This office has had to lay everyone off one day a month without pay in order to meet the reduced budget. The workload on everyone has increased and with less time to complete this workload. We lost sight of our first responsibility to the public which is service.

Your files have been mandated and, therefore, the files were moved to our stored file area. In order for this office to better serve you and your need to review stored files, would you call or send a letter requesting a specific file to be at the front desk for your review on a date certain. We cannot review a file to see if certain pleadings are filed, so we must request that you specify the file you wish to review.

We are looking forward to being able to regain your respect for our service."

Very truly yours,

/S/_____

Richard D. Taylor
Clerk

RDT/ea
cc: Chief Judge Andersen

"Please feel free to call me directly if you need to."
(In longland)

APPENDIX B-2

Dated: March 3, 1983

EXCERPTS FROM ANSWER TO MR. TAYLOR'S LETTER MOTION RAP 17.7 TO THE PRESIDING JUDGE TO MOVE RECORDS TO SUPREME COURT STATE OF WASHINGTON

Page 2:

(a) The motion for removal of records from your court filed on February 14, 1983 was addressed specifically to Honorable Judge Andersen. I first called Honorable Judge Callow because he removed the records of Appeal #4916-I in 1979 after the original files were released to my adversary F. V. Betts for 46 days and there is a pending action. Honorable Judge Callow stated only the presiding judge could rule and that he was no longer presiding and to contact Honorable Judge Andersen. The motion was for Judge Andersen.

(b) Richard D. Taylor, Clerk of the Court of Appeals Division I ruled on the motion by letter and this is not proper under the circumstances and I ask Honorable Judge Andersen to rule.

Last Three Paragraphs page 3:

There is a question of PREMATURE MANDATE also on appeal to the United States Supreme Court. The issues surrounding this motion and appeal of motion are being evaded and avoided. In the first place, the clerk is-not in a position to rule on this matter which is only for the presiding judge.

I have read Mr. Taylor's letter very carefully. It is not my intention to "correct" anyone, and at no time in my motion was there any issue except the reasons for the removal of the records from your court. The circumstance of February 3, 1983 is only a long line of bias and prejudice endured in the filing and judgments. Most were more subtle but equally detrimental.

Mr. Taylor states files cannot be reviewed to see if certain pleadings are filed. At no time have I ever asked for anyone to review a filed to see if something is filed, not in this court, and not in Superior Court.

And I have not deliberately gone to a file for that purpose myself.

Page 5 Last Three Paragraphs: All - p 6 & 7:

For some reason, Mr. Taylor is opposed to me personally and it makes me feel sorry that he was put in a position to think he must apologize or explain. There are no excuses and cannot accept those proferred.

May I remind the court that I entered the Court of Appeals at a little after 8:30 a.m. when I felt there would be no attorney needing help, but if there were, it is always my pattern to wait until last. There in the Court of appeals, and also in the Superior court in line at the filing window, at the xerox machine, at the window for the file access, in the law library I will seat myself on a bench by the door without a table so that attorneys will have access. Mr. Taylor's letter sounds as if I do none of these and he must ask me to make an appointment for

public records.

Please take judicial notice that I asked for one page out of one volume of one case to be xeroxed. The "workload on everyone" was so increased that she had time and energy to bring the entire files for two appeals and throw them at my feet, and then go into Mr. Taylor's office to reiterate with gestures the entire scene of humiliation and outrage and anguish to another.

I think it is beneath the dignity of the Clerk's position in the Court of Appeals to be placed in a position of apologizing. It is best by far to do nothing that demands an apology because apologies do not undo what has been done. There is no anger towards anyone. Mr. Taylor is of superior intelligence and it is beneath the dignity of his position as quasi officer of the court to do what he did Feb 3,1983, but the last five years are also involved in the treatment I have received at the Court of Appeals

by your Clerk.

There is no way that I can make an appointment to see my own files. What the Clerk Mr. Taylor does not seem to understand is that there is no bus service to your Court, and that in the physicial condition imposed upon me by a drinking driver and redress and remedy taken from me by attorneys, there is no planning from day to day what can be done. My life is lived the morning for the morning, the afternoon for the afternoon, and the evening for the evening. I have learned not to make plans that invariably are interrupted by pain or immobility.

Personal service on the Appellate Court and two defendants takes me all day, and then to bed in the first aid room for what is left. Then home to bed. Now I am supposed to make an appointment. No.

Why would Beatrice Koker come to the Court of Appeals Division I and ask for one specific

page of one specific file of one specific appeal? Because there is a never-ending search for counsel. From my own personal knowledge and experience, there is discrimination against the pro se's.

That one page may have opened the door to obtaining counsel, and I have not been able to pursue the possibility because of the repercussions and aftermath of relating back 5 years of this injustice perpetrated upon me in State Courts. Feb 3, 1983 reminder.

I am not a sue-happy litigious person. I have never been discourteous to Mr. Taylor, not matter what he says or does.

CONCLUSION: My motion of February 14, 1983 to remove the original records of Appeal 9346-1-I and Appeal 8935-8-I and to verify that Appeal 4916-I is still in the Supreme Court is the purpose of the motion, and now this appeal of that motion. Please.

Respectfully submitted,

/s/
Beatrice E. Koker, Pro Se
939 North 105th Street
Seattle, Washington 98133
783-6998

CC: Ingrid Hansen
Betts, Patterson Mines
900 4th Avenue 40th Fl
Seattle, Washington 98164

William A. Helsell
Helsell, Fetterman, Martin,
Todd & Hokanson
Post Office Box 21846
Seattle, Washington 98111

Supreme Court State of Washington
Temple of Justice
Olympia, Washington 98504

I do certify the above sent certified mail restricted delivery first class and mailed at the Post Office 3rd and Union Seattle, Wn

March 3, 1983 /s/
Beatrice E. Koker

APPENDIX C-7

The Court of Appeals
of the
State of Washington
Seattle
98101

April 26, 1983

The Hon. Reginald Shriver
Acting Clerk of Supre Court
Temple of Justice
Olympia, WA 98504

Dear Mr. Shriver:

Re: 8935-8-I, Koker v. Betts
9346-1-I, Koker v. Betts

Please find enclosed 3 files in no. 8935-8-I and 4 pouches in no. 9346-1-I which are being forwarded to you pursuant to appellant's request. Number 4916-I will be forwarded as soon as the case is brought from storage.

Please acknowledge receipt of the above on the enclosed copy of this letter.

Very truly yours,

/s/
Richard D. Taylor
Clerk

APPENDIX D-1

P 4:

"An applicant shall not be deemed to have exhausted remedies available in courts of the state within the meaning of 28 USC §2254 if he has a right to raise by any available procedure the questions presented. This petitioner pleads and re-pleads for your help."

P 5: CONSTITUTIONAL TRIAL DENIED

"Procedural due process is opportunity to be heard at a meaningful time and in meaningful manner." CONSTITUTION AMENDMENT 14 PARKHAM V CORTESE 407 US 67, 32 L Ed 2d 556, 34 L Ed 2d 165:

p 8: CONSTITUTIONAL COURT

"All courts are Constitutional COURTS under Article III §1 Note 61. There are three essentials of a Constitutional Court:

"(a) Judge

(b) Attorneys, who are officers of the court

(c) Jury

"When any one of the three fails, there cannot be a trial fully and fairly heard in a meaningful manner to meet the credentials of a Constitutional trial." "Concealment of concealment is the verdict of granted summary judgment."

Page 10: **STATE BAR ACT**

"Petitioner Beatrice Koker has presented the question of state attorneys under state statute as being "under color of law." When the wrongdoing is of such a nature as in the case at bar it needs review . ."

Page 10: **THE VICTIM IS THE WITNESS**
Page 11: **THE WITNESS IS THE VICTIM**

"I am a witness as a victim of permanent injuries, wearing a leg brace for life, feeling the pain, enduring the physical emotional, mental aftermath and anguish of a broken way of life. I am a victim and a witness to an unconstitutional trial, court proceedings since 1975 and 1976 overpowered by deceit, untruths, obstruction of justice, concealment by two attorneys. I am a pro se victim and witness to the struggle for redress and remedy and truth and honor and restitution by those who committed the wrong et ux, et al. I am a victim and witness to fighting this case alone without counsel since July 1976."

"First the driver of a car drinking and speeding, defective brakes, and going through an arterial stop sign, crippled me for life. Then my attorney betrayed me with another in the court proceedings and denied me redress and

remedy for the injuries. Then the courts upheld the evading by the defendants #1 and #2 by evading the appeal and evading petition for review. I am the victim and witness of all."

Page 11: RESPECTFULLY ASKING

(1) "Reconsideration of denial of petition for review. (2) Disregarding, vacating, settling aside, voiding, whatever the court deems necessary to deal with a premature mandate violating constitutional guarantees of a day in court through the last plea. (3) "A motion was before the Court of Appeals regarding costs and never ruled upon when the mandate was prematurely issued." (4) ERRATA: Change the letter of the Supreme Court Dated December 6, 1982 to read "PRE-MANDATE" motions. (5) Please rule on all pending motions before the Supreme Court of the State without any interference from a mandate premature and trying to cut off the final plea from petitioner."

p 12: THE LAST OF LIFE

"First, the disabled plaintiff has been deprived of his freedom of activity, in essence the primary freedom of them all. Think of the indignation and obvious injury that would result from an involuntary imprisonment. The victim is denied the capacity to go where he wants and do what he wishes. His life is held in suspension while this sub-human existence persists. Is the result any different when the "imprisonment" results from a physical disability? The results are the same. The victim leads a sub-human existence, unable to fulfill his potential, deprived of fundamental and substantial right."

Page 16: MOTION FOR RECONSIDERATION
REHEARING

"QUESTION IS THIS TRUE?

"From my own knowledge and experience I have heard it said the Supreme Court of the State of Washington has advised the Superior Court to "clear the crowded calendars with summary judgment."

PUBLIC INTEREST
PUBLIC PROTECTION
PUBLIC POLICY

"The public class of litigants is adversely affected by the case at

bar if a citizen cannot rely upon attorneys for their protection in legal matters."

"The summary judgment procedure is never to be used to relieve a crowded court calendar. CR 56."

Page 17:

"My respect for the courts never waivers. My respect for the Judges is consistent. My respect for the legal profession remains firm. This all amounts to a dependence upon the "system" to do what is right and just."

"Being a cripple has demoted self-esteem for over 11 years but the Constitution of the United States considers every citizen important."

939 North 105th Street
Seattle, Washington
98133

June 28, 1983

Honorable Reginald Shriver
Clerk, Supreme Court
State of Washington
Olympia, Washington

Dear Sir:

SETTLEMENT CONFERENCE

The brochure this appellant prepared for that occasion is not on the appellate court docket sheet, and I cannot find it in either Appeal #9346-1-I nor #8935-8-I when last in your court preparing my record for the United States Supreme Court Appeal.

This is an important document showing my effort to settle this case. It is a 8½ x 14 with tabs down the right side for the convenience of court and counsel, and myself.

The document is missing from the file. It may have been mislaid or misfiled. I have

my copy with the stamp of service of the Court of Appeals and two adversary parties et ux, et al.

HAVE THE TAPES BEEN FOUND AS YET?

TAPES OF ORAL ARGUMENT COURT OF APPEALS DIV I MARCH 24, 1982

Beatrice Koker, Appellant in the Court of Appeals Division I has asked that court for copies of the consolidated oral argument held March 24, 1982. The Court of Appeals answered they could not make me copies. I asked the day or oral argument, and in July when the opinion came down and again in November 1982.

In December while in Olympia, I asked the State Supreme Court verbally for copies of the oral argument, and they agreed, but they had to get the tapes. I re-asked in about February and then April and in June. This oral argument is mot important and needed in preparation of the pending appeal in the United States Supreme Court.

THE FILE DOCUMENTS OUT OF ORDER

The files of 9346-1-I and 8935-8-I are out of order and I did not correct this as it is my duty to look at the files as they are, so I would check each document with the docket and this meant going back and forth as the years changed in the filing system. But this should be corrected before the files go into another court. I have and will and do appreciate all your help.

Respectfully,

/s/

Beatrice E. Koker, Pro Se

APPENDIX F-3

The Supreme Court
State of Washington
Olympia
98504
July 14, 1983

Ms. Beatrice E. Koker
939 North 105th Street
Seattle, Washington 98133

Re: Court of Appeals No. 8935-8-I
9346-1-I Koker v Betts

Dear Ms. Koker:

I am in receipt of your letter of June 28, 1983, regarding the record in the referenced cases. As early as I can determine, we have the entire record forwarded from the Court of Appeals. Neither the Pre-Settlement Conference Brochure nor the tapes of the March 24, 1982, oral argument appear in that record. I am informed by Mr. Taylor that the tapes of oral argument in the Court of Appeals are, as a matter of course, removed from the files at the time the mandate issues from that court, and are re-used. Presumably, this procedure was followed in your case.

Very truly yours,

/S/
Reginald N. Shriver
Clerk

Excerpts From Disclosure Motion: Page 6:

"As soon as the shocking words in opinion came through July 6, 1982, I read them without the slightest recognition of the case at bar with jury issues, questions of credibility, the CR 56 Rules. Nothing."

"The oral argument questions for the jury raised from the bench, disappeared - - the oral argument questions from the bench as to motive being an issue for the jury disappeared. The aura of oral argument March 24, 1983 is a vital influence to recognition of the discrepancy between the dignity of the courtroom and the shambles of somebody's authorship leaving out one complete cause of action, and even to the extent of relating my husband is deceased when he is not."

"THEN WHY A PER CURIAM RULING OUT OF CONTEXT WITH ORAL ARGUMENT RECEPTION?

"WHY IS PUBLIC DISCLOSURE BEING WITHHELD FOR A SIMPLE REQUEST OF A COPY OF THE ORDERS FOR THOSE OPINIONS?

Excerpts From Disclosure Motion: Page 7:

"The State Disclosure Act RCW 42.17.340 has costs recoverable up to $25. per day for which the documents are wrongfully withheld. Beatrice Koker must state emphatically that at no time have I ever made a mercenary motion to ask for sanctions or costs-funds for myself in the most degrading prejudicial treatment. I would not claim this penalty."

Excerpts Page 10: CONCLUSION

"Public Disclosure in the right to information. Why would a court want to withhold the information I request, am willing to pay for, and is my right to have? There is no prejudice to anyone. Thousands of other opinions have this information right upon them. The information is missing from a per curiam ruling, I am seeking it another way and that way is blocked. To withhold from me, what others automatically

have, is not equal protection under the law."

Excerpts Page 4:

"There are pro se facts which may enter into this." "An overheard remark in essence: "Two more pro se cases came in here today. How am I going to break <u>that</u> to the Judge?"

Excerpts Page 6:

"Coping with hoping is believing there is justice. There is a concensus that predicts a pro se will fail in lower court, fail in appellate court, fail in the state Supreme Court and "That will be the end of it." Encounters with this concept of abject hopelessness, inspired me to remind that there is a United States Supreme Court. The reply specifically states in essence, "Oh well, they do not care what we do down here."

(ATTORNEYS MADE ME BECOME A PRO SE)
